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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/163,771	09/30/1998	ROBERT H. LESLIE	2002-1528.OR1	5867

22476 7590 04/28/2005

HAUGEN LAW FIRM  
SUITE 1130 - TCF TOWER  
121 SOUTH EIGHTH STREET  
MINNEAPOLIS, MN 55402

EXAMINER

GREEN, CHRISTY MARIE

ART UNIT PAPER NUMBER

3635

DATE MAILED: 04/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/163,771

Applicant(s)

LESLIE ET AL.

Examiner

Christy M Green

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 April 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 29-31, 35, 36 and 38-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 38-45 is/are allowed.
- 6) ☒ Claim(s) 29-31, 35 and 36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: attached figure (1).

### **DETAILED ACTION**

This is a second office action for serial number 09/163771, entitled Organic I-Beam Soffit, filed on September 30, 1998.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 29-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Anthony, US Patent # 5,540,015.

Anthony discloses the claimed invention a soffit/shelter/roof overhang/ wall structure as shown in figures 1, 1A and 2 comprising an I-joist having an elongate web (22) is secured to a pair of flanges (20, 26) on the elongated edges thereof. One flange (26) is secured to the wall structure (32), the other flange (26) is secured to the roof overhang (34). The soffit extends along a portion of the perimeter of the shelter as shown in figure 1. The roof overhang (34) comprises fascia (at 36) where wherein one of the flanges (26) is fixed to the fascia (20 by 22 – column 4, lines 1-3). The soffit extends at generally a right angle to the wall, and the I-joist is formed of organic matter (i.e. wooden components). A plurality of rafters (40) form a part of the roof of the shelter, with the flange (26) being secured to, and extending between, the rafters (40) via elements (34).

#### ***Claim Rejections - 35 USC § 103***

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over Anthony in view of Pinckney, Jr, US Patent # 3,256,654.

Anthony discloses the claimed invention as stated above, except for a plurality of rafters, with one of the flanges of the I-joist being fixed to the rafters and traveling between the rafters. Pinckney teaches that it is known in the art to provide an I-joist (figure 1) having an elongate web (10) between flanges 18, (12/50), the soffit secured to the wall (14) via flanges (12/50), and to the roof overhang (see attached figure 1) via flange (18). The soffit at a right angle to the wall structure and the flange (18) is fixed to and travels between a plurality of rafters (20 – as shown in figures 1 and 2 at the top view). It would have been obvious to one having ordinary skill in the art to provide a plurality of rafters as taught by Pinckney with the structure of Anthony in order to provide a complete roof structure that would hide the rafters or the eaves from view from the ground and to give the building a more finished appearance (column 1, lines 16-20).

Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over Anthony.

Anthony discloses the claimed invention as stated above, however there is no specific mention that the rafters are I-beams. It would have been obvious to one having

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ordinary skill in the art to use I-beams for the rafters in Anthony, based upon known construction/roofing techniques at the time the invention was made. The resulting system remains functionally equivalent, since the I-joist soffit is still secured to the rest of the shelter's components, as intended, regardless of what type of rafter is used for the roof.

***Allowable Subject Matter***

Claims 38-45 are allowed.

***Response to Arguments***

Applicant's arguments with respect to claims 38-45 have been considered but are moot in view of the new ground(s) of rejection.

In response to the applicants argument that claim 29 should be in condition for allowance based on previous indication of allowable subject matter of claim 37, the limitations within claim 29 that were incorporated have been found to be readable on the Anthony reference, the examiner has included her interpretation of the limitations added above within the office action.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christy M Green whose telephone number is 703-308-9693. The examiner can normally be reached on M-F 8:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on 703-308-0839. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Cg  
March 3, 2005

A handwritten signature in black ink, appearing to read "Brian E. Glessner", with a long horizontal flourish extending to the right.

**BRIAN E. GLESSNER**  
**PRIMARY EXAMINER**

June 21, 1966

E. B. PINCKNEY, JR

3,256,654

SOFFIT SUPPORTING FITTING

Filed April 26, 1962

FIG. 1.

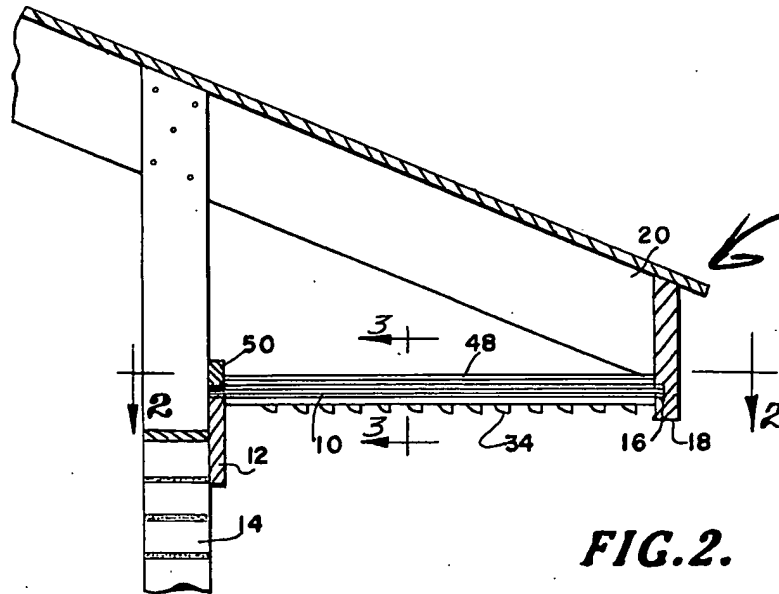


FIG. 2.

FIG. 4.

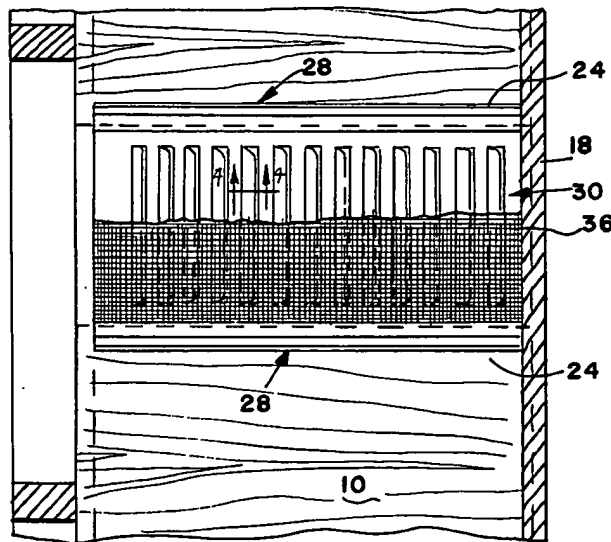
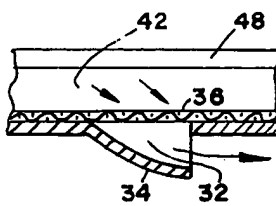
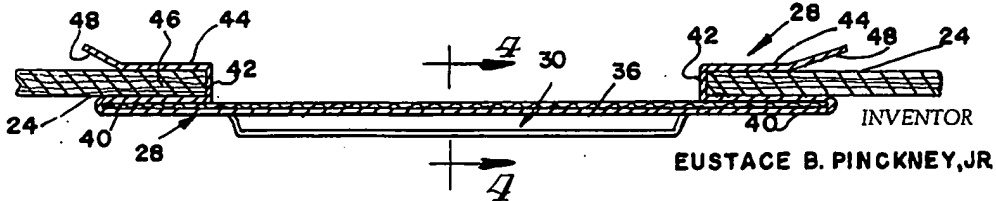


FIG. 3.



INVENTOR  
EUSTACE B. PINCKNEY, JR

BY *Cushman, Darby & Cushman*  
ATTORNEYS